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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA

8 Wayne Hiatt,

9 Plaintiff,

10 vs.

11 Sun City Festival Community  
12 Association Incorporated,

13 Defendant.  
14

No. CV-23-00552-PHX-SPL

**ORDER**

15 Several motions are pending before the Court: (1) Defendant Sun City Festival  
16 Community Association Incorporated's Motion for Partial Summary Judgement (Doc. 93)  
17 and accompanying Statement of Facts (Doc. 94); (2) Plaintiff Wayne Hiatt's Motion to  
18 Strike Defendant's Motion for Partial Summary Judgment and Statement of Facts and  
19 Motion to Seal Doc. 94-3 (Doc. 96); and (3) Defendant's Motion to Seal Plaintiff's Medical  
20 Records at Docs. 68-1, 94-3, and 116-1 (Doc. 123). The Court will address the parties'  
21 various motions below.

22 **I. BACKGROUND**

23 On March 31, 2023, Plaintiff filed a two-count Complaint against Defendant Sun  
24 City Festival Community Association Incorporated ("Defendant" or the "Association")  
25 alleging discrimination under the Fair Housing Act ("FHA") 42 U.S.C. §§ 3601, et seq.,  
26 and the Arizona Fair Housing Act ("AZFHA"), A.R.S. § 41-1491.19(B). (Doc. 1). Plaintiff  
27 alleges that he is a disabled veteran who suffers from post-traumatic stress disorder  
28 ("PTSD"), constant anxiety, and panic attacks. (Doc. 1 at ¶ 8; Doc. 87 at 3). Plaintiff alleges

1 that woodworking helps reduce the symptoms associated with his disability. (Doc. 1 at ¶  
 2 10; Doc. 87 at 3). Plaintiff further alleges that his garage is the only place where he can  
 3 engage in woodwork and achieve therapeutic benefits to his PTSD. (Doc. 1 at ¶ 10; Doc.  
 4 87 at 3). The Association’s Declaration of Covenants, Conditions, and Restrictions  
 5 (“CC&Rs”) prohibits open garage doors and further provides that “[g]arage doors shall  
 6 remain closed at all times except when entering or exiting the garage.” (Doc. 7 at ¶ 6; Doc.  
 7 97 at 16; Doc. 50-1 at 375, § 3(c)). Plaintiff, however, claims he needs to keep his garage  
 8 door open while woodworking inside of his garage to avoid triggering his PTSD. (Doc. 1  
 9 at ¶ 10; Doc. 87 at 4).

10 In October 2022, a neighbor complained to the Association about Plaintiff leaving  
 11 his garage door open, and the Association sent Plaintiff a notice of violation instructing  
 12 him to keep the garage door closed. (Doc. 87 at 3–4). In November 2022, Plaintiff sent the  
 13 Association a request for accommodation under the FHA to keep his garage door open  
 14 while he is woodworking. (Doc. 1 at ¶ 11). In January 2023, the Association, through its  
 15 legal counsel, denied Plaintiff’s accommodation request. (Doc. 1 at ¶¶ 16–17, Doc. 1-2 at  
 16 2–3). Plaintiff filed this lawsuit shortly after. (Doc. 1).

17 Following the Court’s ruling on Plaintiff’s Motion for Partial Summary Judgment  
 18 on August 13, 2024 (Doc. 82), Defendant filed its Motion for Partial Summary Judgment  
 19 on the reasonableness and necessity elements of Plaintiff’s FHA claim and the issue of  
 20 damages and its accompanying Statement of Facts on September 11, 2024. (Docs. 93, 94).  
 21 On September 13, 2024, Plaintiff moved to strike Defendant’s Motion and Statement of  
 22 Facts and to seal his mental health records filed at Doc. 94-3. (Doc. 96). Subsequently,  
 23 Defendant filed a Motion to Seal Plaintiff’s Medical Records at Docs. 68-1, 94-3, and 116-  
 24 1. (Doc. 123).

## 25 II. DISCUSSION

### 26 a. Motion for Partial Summary Judgment and Motion to Strike

27 Plaintiff moves to strike Defendant’s Motion for Partial Summary Judgment (Doc.  
 28 93) and accompanying Statement of Facts (Doc. 94). (Doc. 96). Plaintiff argues that

1 Defendant did not satisfy the “meet and confer” requirement of this Court’s Rule 16 Case  
 2 Management Order (Doc. 14 at 5) by failing to send Plaintiff a two-page statement  
 3 describing its anticipated motion for partial summary judgment or otherwise conferring.  
 4 (Doc. 93 at 1, 3).

5 The Court’s Rule 16 Case Management Order provides:

6 The parties must also confer prior to filing any motion pursuant  
 7 to Federal Rule of Civil Procedure 56. In doing so, the parties  
 8 shall exchange a two-page statement describing any  
 9 anticipated motion for summary judgment and response,  
 10 identifying the issues and claims on which summary judgment  
 11 will be sought and the basis for the motions and response. The  
 purpose of conferral should be aimed at streamlining the issues  
 in dispute, and dispensing of statements of fact. A certificate  
 of conferral must be attached to any motion for summary  
 judgment. **Any motion lacking an attached compliant  
 certificate may be summarily stricken by the Court.**

12 (Doc. 14 at 5 (emphasis added)).

13 Plaintiff further argues that Defendant’s failure to comply with the Court’s meet and  
 14 confer requirement unfairly prejudiced Plaintiff by (1) needlessly attaching documents that  
 15 should have been sealed and (2) raising issues resolved by this Court in its Order (Doc. 82)  
 16 ruling on Plaintiff’s prior Motion for Summary Judgment. (Doc. 96 at 3). Plaintiff also  
 17 notes—and Defendant admits—that Defendant failed to respond to Plaintiff’s previous  
 18 attempts to meet and confer in March 2024, prior to Plaintiff filing his own summary  
 19 judgment motion. (*Id.* at 2; Doc. 114 at 1). Defendant argues that its Motion for Partial  
 20 Summary Judgment (Doc. 93) should not be stricken because its failure to attach a good  
 21 faith certificate was inadvertent; Defendant’s counsel indicated on a phone conversation  
 22 with Plaintiff’s counsel “[o]n a date that undersigned counsel does not recall” that it  
 23 intended to file a motion for summary judgment on the issues in the Court’s August 13,  
 24 2024 Order (Doc. 82); and its Motion for Partial Summary Judgment was narrow and in  
 25 direct response to the Court’s Order. (Doc. 114 at 2–3).

#### 26 i. Necessity and Reasonableness

27 To the extent Defendant’s Motion for Partial Summary Judgment seeks summary  
 28 judgment on the issues of necessity and reasonableness, the Motion essentially acts as a

1 motion for reconsideration of the Court’s August 13, 2024 Order on Plaintiff’s Motion for  
 2 Summary Judgement (Doc. 82). (*See* Doc. 93 at 3, 12–14 (“reincorporat[ing] the argument  
 3 and evidence presented in its Response to Plaintiff’s Motion for Summary Judgment” on  
 4 reasonableness element and reiterating arguments on necessity in its previous Response to  
 5 Plaintiff’s Motion)).

6 LRCiv 7.2(g) details the proper form, content, and procedure to bring a motion for  
 7 reconsideration before the Court. LRCiv 7.2(g). Defendant failed to comply with this Rule  
 8 in numerous ways, including by repeating “written argument[s] made by the movant in  
 9 support of or in opposition to the motion that resulted in the Order,” filing the motion more  
 10 than 14 days after the Court’s Order, and failing to include the requisite information on the  
 11 specific modifications sought. *Id.* Because Defendant failed to properly and timely seek  
 12 reconsideration in accordance with the Local Rules and this Court’s prior Orders,  
 13 Plaintiff’s Motion to Strike Defendant’s Motion for Partial Summary Judgment (Doc. 96)  
 14 will be granted with respect to the portions of Defendant’s Motion pertaining to necessity  
 15 and reasonableness.

## 16 **ii. Damages**

17 To the extent Defendant’s Motion seeks summary judgment on damages—an issue  
 18 not addressed in this Court’s August 13, 2024 Order (Doc. 82)—the Motion need not  
 19 comply with LRCiv 7.2(g). Although Defendant’s failure to meet and confer violates this  
 20 Court’s Rule 16 Order, that Order provided that the Court *may* strike noncompliant  
 21 motions. (Doc. 14 at 5). In the interests of justice and efficiency and because the parties  
 22 have fully briefed the issue (Docs. 93, 124, 126), the Court will exercise its discretion and  
 23 address Defendant’s request for summary judgment on the issue of damages (Doc. 93 at  
 24 14–17).

25 Summary judgment is appropriate if “the movant shows that there is no genuine  
 26 dispute as to any material fact and the movant is entitled to judgment as a matter of law.”  
 27 Fed. R. Civ. P. 56(a). A party seeking summary judgment always bears the initial burden  
 28 of establishing the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*,

1 477 U.S. 317, 323 (1986). The moving party can satisfy its burden by demonstrating that  
2 the nonmoving party failed to make a showing sufficient to establish an element essential  
3 to that party's case on which that party will bear the burden of proof at trial. *Id.* When  
4 considering a motion for summary judgment, a court must view the factual record and draw  
5 all reasonable inferences in a light most favorable to the nonmoving party. *Leisek v.*  
6 *Brightwood Corp.*, 278 F.3d 895, 898 (9th Cir. 2002).

7 Defendant argues that Plaintiff failed to establish that Defendant's accommodation  
8 denial was the cause of Plaintiff's alleged harm and thus Plaintiff cannot show actual  
9 damages. (Doc. 93 at 15). Additionally, Defendant argues that Plaintiff is not entitled to  
10 punitive damages because he cannot show that Defendant acted with reckless indifference  
11 in denying the accommodation. (*Id.* at 17). With respect to actual damages, Plaintiff argues  
12 that the accommodation denial has clearly caused him to suffer emotional distress, as he  
13 has been unable to manage his PTSD symptoms and has experienced anxiety, depression,  
14 and panic attacks with greater frequency. (Doc. 124 at 12). Plaintiff further argues that  
15 Defendant's refusal to investigate or discuss the accommodation request constituted a  
16 "callous disregard" of Plaintiff's wellbeing warranting punitive damages. (*Id.* at 15–16).

17 Regarding actual damages, "[c]ausation is an intensely factual question that should  
18 typically be resolved by a jury." *Pac. Shores Props., LLC v. City of Newport Beach*, 730  
19 F.3d 1142, 1168 (9th Cir. 2013). Indeed, the Ninth Circuit has held that summary judgment  
20 is not appropriate on the ground of absence of causation if a plaintiff can present evidence  
21 that he suffered an injury that would reasonably be expected to result from a defendant's  
22 wrongful conduct. *Id.* Moreover, causation can be shown through evidence that the  
23 defendant's conduct was a substantial factor in bringing about the harm, even if other  
24 factors may have contributed to the harm. *Id.* Plaintiffs bringing FHA claims may recover  
25 actual damages for emotional suffering or distress—such as an unusual level of anxiety,  
26 embarrassment, or humiliation—"even if that distress does not physically manifest itself  
27 or necessitate psychological counseling." *Id.* at 1172 (collecting cases).

28 In this case, Plaintiff has provided testimonial evidence that the denial of his

1 requested accommodation has prevented him from managing his disability and triggered  
2 disability-related symptoms, such as anxiety, panic attacks, and depression. (Docs. 124 at  
3 12; 125-3 at 26–27, 29). To be sure, a genuine issue of material fact remains as to whether  
4 Defendant’s denial of the accommodation was a substantial factor in causing Plaintiff’s  
5 alleged emotional distress, rather than other potential causes outlined by Defendant. (Doc.  
6 93 at 16–17). However, that is an issue of fact best left for the jury.

7 Punitive damages for violations of the Fair Housing Act may be appropriate where  
8 a defendant’s unlawful activity involved reckless or callous indifference to a plaintiff’s  
9 federally protected rights. *Fair Hous. Ctr. of Wash. v. Breier-Scheetz Props., LLC*, 743 F.  
10 App’x 116, 118 (9th Cir. 2018). “The focus is on the defendant’s state of mind, and punitive  
11 damages may be warranted if the defendant knew it was violating the law or perceived a  
12 risk that its conduct would violate the law.” *Skochko v. Mercy Hous., Inc.*, No. 20-CV-  
13 08659-JSC, 2022 WL 3357836, at \*14 (N.D. Cal. Aug. 15, 2022) (citations omitted).  
14 Courts in the Ninth Circuit have found it premature to rule on punitive damages at summary  
15 judgment where the underlying FHA claim remains viable. *See Patton v. Hanassab*, No.  
16 14CV1489 AJB (WVG), 2016 WL 4507022, at \*8 (S.D. Cal. Aug. 29, 2016); *Elliott v. QF*  
17 *Circa 37, LLC*, No. 16-CV-0288-BAS-AGS, 2018 WL 2933467, at \*23 (S.D. Cal. June  
18 12, 2018).

19 Here, Plaintiff has a viable FHA claim and has offered evidence that Defendant  
20 failed to engage in the interactive process with respect to his requested accommodations.  
21 (See Doc. 124 at 15–16); see generally *Montano v. Bonnie Brae Convalescent Hosp., Inc.*,  
22 79 F. Supp. 3d 1120, 1133 (C.D. Cal. 2015) (awarding punitive damages upon finding  
23 reckless indifference when defendant failed to grant accommodations or engage in  
24 interactive process). Plaintiff also argues that Defendant continues to allow other  
25 community members to keep their garage doors open and was motivated to deny Plaintiff’s  
26 requested accommodation because of complaints from Plaintiff’s neighbor. (Doc. 124 at  
27 1–2). Making all reasonable inferences in a light most favorable to Plaintiff, a jury could  
28 conclude that Defendant’s conduct constitutes reckless or callous indifference, or at the

1 very least, acted “in the face of a perceived risk that its actions would violate federal law.”  
 2 *Sw. Fair Hous. Council v. WG Scottsdale LLC*, No. CV-19-00180-TUC-RM, 2022 WL  
 3 3155113, at \*4 (D. Ariz. Aug. 8, 2022), *aff’d*, No. 22-16345, 2023 WL 6820681 (9th Cir.  
 4 Oct. 17, 2023). Thus, the Court finds that a genuine issue of fact exists regarding punitive  
 5 damages, and that summary judgment is inappropriate on the issues of both actual and  
 6 punitive damages.

7 All told, due to Defendant’s noncompliance with LRCiv 7.2 and this Court’s Order,  
 8 Defendant’s Motion for Partial Summary Judgment (Doc. 93) and its associated documents  
 9 (Docs. 94, 124, 125, 126) will be stricken to the extent they address the issues of necessity  
 10 and reasonableness. Defendant is warned that any further filings that fail to comply with  
 11 the Local Rules or this Court’s Orders will be stricken without leave to refile and may result  
 12 in sanctions. Additionally, Defendant’s Motion for Partial Summary Judgment on the issue  
 13 of damages is denied, as genuine issues of material fact exist as to whether actual or  
 14 punitive damages are warranted.

15 **b. Motions to Seal (Docs. 96, 123)**

16 Plaintiff’s Motion to Seal requests that the Court seal his unredacted medical records  
 17 located at Doc. 94-3. (Doc. 96 at 1). Notwithstanding Defendant’s contrary arguments  
 18 against sealing Exhibit 3 in its Response to Plaintiff’s Motion to Strike (Doc. 114 at 4–5),  
 19 Defendant’s most recent Motion to Seal also requests the Court to seal Doc. 94-3, along  
 20 with other unredacted filings of Plaintiff’s medical records, found at Docs. 68-1 and 116-  
 21 1. (Doc. 123 at 1–2). Defendant seeks to substitute these documents with a redacted version  
 22 of the records, filed at Doc. 123-1, and Defendant’s Motion indicates that both parties  
 23 reviewed Doc. 123-1 to ensure all redactions were made. (*Id.* at 2). The proposed redactions  
 24 include information that the Court ordered the parties to redact at the September 25, 2024  
 25 Preliminary Injunction Hearing (*See* Doc. 117 at 43–44), Plaintiff’s birth date information  
 26 as required by Fed. R. Civ. P. 5.2(a), and Plaintiff’s medical record number. (*See* Doc. 123-  
 27 1). The proposed redactions are limited to personally identifiable information that do not  
 28 bear upon the claims of the case and would not impact “the public’s interest in keeping a



1 watchful eye on the workings of” the Court. *TriQuint Semiconductor, Inc. v. Avago Techs.*  
2 *Ltd.*, No. CV 09-1531-PHX-JAT, 2011 WL 6182346, at \*2 (D. Ariz. Dec. 13, 2011).

3 Because the documents the parties request to be sealed include information that the  
4 Court instructed the parties to redact, the Court will grant Plaintiff’s Motion to Seal Exhibit  
5 3 at Doc. 94-3 (Doc. 96 at 1) and Defendant’s Motion to Seal Plaintiff’s Medical Records  
6 at Docs. 68-1, 94-3, and 116-1 (Doc. 123 at 1). The Clerk of Court shall seal Docs. 68-1,  
7 94-3, and 116-1. The Clerk of Court cannot edit filings that have been docketed, and thus,  
8 Defendant’s request to substitute Doc. 123-1 for Docs. 68-1, 94-3, and 116-1 is denied.  
9 (Doc. 123 at 2). Defendant has already properly filed a redacted version on the record,  
10 which can be found at Doc. 123-1.

11 Accordingly,

12 **IT IS ORDERED** that Plaintiff Wayne Hiatt’s Motion to Strike Doc. 93 Motion for  
13 Partial Summary Judgment and Doc. 94 Statement of Facts (Doc. 96) is **granted** with  
14 respect to the issues of necessity and reasonableness.

15 **IT IS FURTHER ORDERED** that Defendant Sun City Festival Community  
16 Association’s Motion for Partial Summary Judgment (Doc. 93) and its associated  
17 documents (Docs. 94, 124, 125, 126) are **stricken** with respect to the issues of necessity  
18 and reasonableness.

19 **IT IS FURTHER ORDERED** that Defendant’s Motion for Partial Summary  
20 Judgment (Doc. 93) is **denied** with respect to the issue of damages.

21 **IT IS ORDERED** that Plaintiff’s Motion to Seal Doc. 94-3 (Doc. 96) is **granted**.

22 **IT IS FURTHER ORDERED** that Defendant’s Motion to Seal Plaintiff’s Medical  
23 Records at Docs. 68-1, 94-3, and 116-1 (Doc. 123) is **granted in part** with respect to  
24 sealing the documents and **denied in part** with respect to substituting documents on the  
25 docket.

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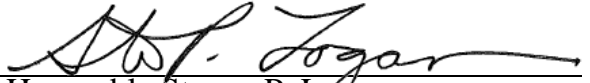
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1           **IT IS FURTHER ORDERED** that the Clerk of Court shall **seal Docs. 68-1, 94-3,**  
2 **and 116-1.**

3           Dated this 3rd day of December, 2024.

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7           Honorable Steven P. Logan  
8           United States District Judge  
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